

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of Santa Ynez Community Services District on Behalf of the Solvang Municipal Improvement District Requesting State Board Consideration of Grant Funding of Conveyance Facilities Associated With Project No. C-06-1108.

ORDER NO. WQG 76-23.

Unrecorded
12-5

BY BOARD MEMBER DODSON:

On April 23, 1976, the Santa Ynez Community Services District (petitioner) petitioned the State Water Resources Control Board (State Board) for review of certain Division of Water Quality decisions. On November 1, 1976, petitioner filed an amended petition which clarified the issues for appeal.

On November 9, 1976, a hearing was held for the purpose of receiving evidence relative to the appropriateness and propriety of the determinations of the Division of Water Quality. After the receipt of substantial evidence, the record was left open until November 19, 1976 for the receipt of additional evidence.

I. BACKGROUND

The community of Santa Ynez has been subject to an acknowledged and documented public health hazard for several years resulting from the failure of private waste disposal systems. As a consequence of the serious problems caused by the health hazard, including a ban on building, the community proposes to build a sewage collection system and interceptor to convey its wastewaters

to the Solvang treatment plant and to expand that plant to accommodate the increased flows. Because the Solvang treatment plant is located on the south side of the Santa Ynez River and Santa Ynez is on the north side, a river crossing is necessary for the interceptor which will convey Santa Ynez's wastewater to the plant.

The community of Solvang, which is also on the north side of the river, has an existing river crossing buried in the riverbed which is used to convey its waste to the plant. After approximately 8 years of use, this crossing was washed out in the floods of 1969. It was then replaced with the assistance of the U. S. Army Corps of Engineers, but the replacement was put in the same place and depth as the previous river crossing, and as such, is likely to be washed out again. In light of this problem, Solvang would like to participate in the construction of a joint river crossing with Santa Ynez.

Three methods of jointly crossing the river were considered to be viable possibilities. One alternative requires attaching the sewer to an existing structure, the Alisal Bridge. Since a significant portion of Solvang's wastewater is conveyed to a point downstream of the bridge, Solvang would have to pump its wastewater back up to the bridge for crossing. A second possibility involves constructing a pile structure which would cross near the existing riverbed crossing. The third alternative requires constructing a new gravity sewer sufficiently deep in the riverbed to prevent washout.

In a letter dated October 22, 1976, the Division of Water Quality notified the petitioner that the Alisal Bridge crossing was the most cost-effective solution to the water quality problems of both communities. The Division also reaffirmed its prior determination that a river crossing for Solvang was not of sufficiently high priority to permit grant funding as it was not a Class A interceptor.

II. CONTENTIONS AND FINDINGS

Petitioner contends that the most cost-effective solution to the water quality problems in the Santa Ynez-Solvang region is a deep gravity sewer crossing which would run roughly parallel to, but deeper than the existing interceptor. Petitioner's contention is based on factors such as reliability, visual impact, and conservation of energy resources as well as monetary costs. The Division of Water Quality contends that the Alisal Bridge crossing is the most cost-effective solution to the water quality problems of both communities, based on a consideration of factors similar to those cited by the petitioner.

Petitioner also contends that the approach to the water quality problems at issue herein must be a regional approach, and that a solution which will consider and substantially aid both communities must be developed. Assuming this approach is to be taken, petitioner cites the California Administrative Code, [Title 23, Chapter 3, Subchapter 7, Section 2108(e)]:

"If treatment works fall in more than one priority class, the treatment works will be placed on the highest priority class applicable to the treatment works, provided, however, that any portion of the treatment works which does not meet the criteria of the higher class may be excluded from the higher priority class and placed in the appropriate lower class or be declared ineligible for grant, as determined by the division."

Petitioner asserts that it is an abuse of discretion for the Division of Water Quality to exclude Solvang's share of a regional project from the higher priority class. The Division responded that staff has traditionally interpreted Section 2108(e) as permitting the Division, in its discretion, to place treatment works in a higher priority class than they would normally merit if they are part of a larger project that falls within a high priority class.

Moreover, the Division asserted that it had used this discretionary power in an effort to avoid the delays inherent in the hearing process and in an attempt to lead the project to a speedy conclusion by offering to make the jointly used portions of the bridge crossing alternative fundable to the 20 year capacity of both communities. This offer was contingent upon the submission of a joint powers agreement by January, 1977, Solvang's use of the joint river crossing within a period acceptable to the Regional Water Quality Control Board, and Solvang's acceptance of the Division's determination that the bridge crossing was the most cost-effective alternative. This offer was rejected by the petitioner and withdrawn by the Division for purposes of the hearing.

The Division argued that it would not be an appropriate use of its discretion under Section 2108(e) to place those parts of the treatment works which solely served Solvang within a fundable priority class, since the primary objective of the project was to deal with Santa Ynez's water quality problems.

At the hearing, petitioner also argued that even if the project were viewed as primarily for Santa Ynez's benefit, and if in this context the Alisal Bridge were found to be the most cost-effective alternative, then the pump station and force main which would be necessary to bring Solvang's wastewater to the bridge would be eligible for funding as a Class A interceptor because it is an interceptor that "brings about or promotes desirable consolidation of treatment works consistent with a water quality control plan", (California Administrative Code, Title 23, Chapter 3, Subchapter 7, Section 2102(v)(1)(B)).

The Division of Water Quality responded that the force main and pump station thus alluded to was not an interceptor because its primary purpose was not "to transport wastewater from an entire community to a treatment plant, either by itself or in conjunction with another interceptor or interceptors", (California Administrative Code, Title 23, Chapter 3, Subchapter 7, Section 2102(v)). The Division argued that it has traditionally applied the further limitation in this section that the term does not include facilities whose primary purpose is the collection or

transportation of wastewaters from less than an entire community, despite petitioner's argument that the section permits a community to have more than one interceptor and still be grant fundable.

As a final contention, petitioner asserts that the denial of the funding which they have requested will impose a serious financial hardship on the Solvang Municipal Improvement District. Evidence was presented as to present water and sewer charges, the balances in various District funds and existing bonded debt and loans; additional information was presented outlining property taxes and the economic composition of the community.

We have reviewed and considered all of the above factors in coming to our decision on the issues raised by this appeal. After analyzing the contentions of both petitioner and staff as to the most cost-effective means of crossing the Santa Ynez River, we have concluded that the Alisal Bridge crossing is the most appropriate alternative. This does not preclude petitioners from analyzing further other alternatives at their own cost. However, unless there is a modification of this order by the Board on further demonstration by petitioners within the time schedule set out by the Regional Board, the grant funding will be given only if the Alisal Bridge alternative is constructed.

Having determined that the most cost-effective method of crossing the river is via the Alisal Bridge, we now turn to petitioner's contention that the force main and pump station which would deliver a significant portion of Solvang's wastewater to the bridge, is a Class A interceptor and thus in a fundable

category. The phrase "either by itself or in conjunction with another interceptor or interceptors" was not intended for application to the situation encountered here. Under similar circumstances, staff, with State Board support, has consistently required that an entire community be served by one line in order for the line to be considered an interceptor. We do not feel that the present situation warrants a deviation from that practice.

The State Board recognizes the need to view projects in their regional context. With this in mind, we have considered the application of Section 2108(e), as cited above, to the issues confronting us. Both Solvang and Santa Ynez have clear water quality problems and good planning dictates that we seek to solve them simultaneously. However, with only limited funds available for use, we are forced to set priorities. Operating within this limitation, we have concluded that the Division of Water Quality did not abuse its discretion (Section 2108(e)) in offering to make jointly used portions of the bridge crossing alternative fundable to the 20 year capacity of both communities, while placing the force main and pump station that would deliver Solvang's wastewater to the Alisal Bridge in a lower priority class. We are aware that the staff withdrew this offer for the purposes of the hearing, but we now choose to adopt it as part of our decision. We do not feel, based on the extensive evidence which we have received and reviewed, that it would be appropriate for either the staff or the State Board to decide otherwise.

One of our major concerns in reviewing this project is the extensive delays which have impeded its progress to date. In an effort to bring the project to a speedy conclusion, we have decided to place two conditions on the funding for Solvang's portion of a joint river crossing. First, a joint powers agreement or service contract which complies with the fair and equitable guidelines of the Water Quality Division must be adopted by both districts. It must be submitted to and approved by the Division no later than March 1, 1977. We feel that this condition is consistent with the grant contract for construction of Solvang's treatment facilities which requires Solvang "to provide service to existing and future participating agencies, persons, and users on a fair and equitable basis". (See Grant Contract, Project No. C-06-0835-010, p. 5, Section 13f).

Secondly, should Solvang agree to participate in the joint crossing we will require that Solvang actually begin to use this joint crossing within two years of completion of its construction. We believe that this will give Solvang the necessary time to finance the construction of the pump station and trunk lines that will convey its wastewaters to the bridge. It should be noted that the State Board would not look favorably upon funding a project by Solvang to build a separate river crossing for itself at a later date, rather than to participate in the joint river crossing which is presently being contemplated.

The State Board does take into consideration the ability of a community to finance non-grant fundable facilities on its own.

We recognize that the burden of the costs of construction will be felt by the Solvang community; however, we do not feel that this burden would create a serious financial hardship. Our calculations indicate that Solvang's local share of the eligible portions of the joint river crossing facilities would be approximately \$120,000. It appears that cash funds are presently available to fund Solvang's share of the eligible joint facilities. Further funds would not have to be available until construction of the pump station and force main to the bridge was undertaken. These funds could be raised by several possible methods as explored in the hearing. It should be noted that evidence at the hearing indicated that substantial savings might be possible if a package type pump station were used. Solvang's costs will hopefully decrease considerably when this option is explored.

III. CONCLUSION

After a review of the entire record, we conclude as follows:

1. The Alisal Bridge alternative is the most cost-effective solution to the river crossing problem.
2. The force main and pump station which would deliver Solvang's wastewater to the bridge is not an interceptor, as that term is defined in grant regulations.
3. The jointly used portions of the river crossing facilities are grant fundable to the 20 year capacity of both communities under Section 2108(e) of the grant regulations.

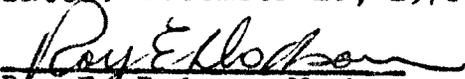
4. This funding is conditioned upon the approval by the Division of Water Quality, by March 1, 1977, of a joint powers agreement or service contract adopted by the districts. This agreement shall comply with the fair and equitable guidelines of the Division of Water Quality.

5. Funding is also conditioned upon Solvang's use of the joint crossing within one year of completion of its construction.

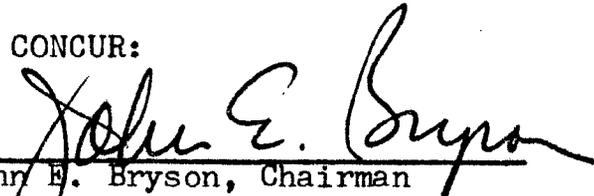
6. Good cause does not exist for the State Board to exercise its option under Section 2110 of the grant regulations to adjust the Fiscal Year 1976-77 Priority List to include in Class I as part of Project No. C-06-1108 conveyance facilities to deliver wastewater from Solvang to the Alisal Bridge river crossing.

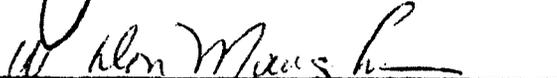
NOW, THEREFORE, IT IS ORDERED that this matter be remanded to the Division of Water Quality for processing of the application of the petitioner in a manner consistent with this order.

Dated: December 16, 1976.


Roy E. Dodson, Member

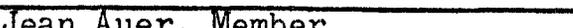
WE CONCUR:


John E. Bryson, Chairman


W. Don Maughan, Vice Chairman


W. W. Adams, Member

ABSENT


Jean Auer, Member

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 78-5
February 14, 1978

AMENDING BOARD ORDER NO. WQG 76-23
RELATING TO GRANT FUNDING OF CON-
VEYANCE FACILITIES FOR SOLVANG
MUNICIPAL IMPROVEMENT DISTRICT SYCSD

WHEREAS:

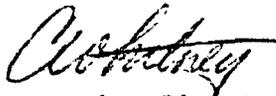
1. Board Order No. WQG 76-23 dealing with the Santa Ynez Community Services District/Solvang Municipal Improvement District appeal of grant funding for conveyance facilities for grant project No. C-06-1108 concluded that the Alisal Bridge Alternative was the cost-effective solution to a river crossing; and
2. The Board Order allowed Solvang Municipal Improvement District to do additional work on the determination of the cost-effective solution to the river crossing; and
3. In a June 8, 1977, Brown and Caldwell report to the Solvang Municipal District an underground crossing of the river near the treatment plant was demonstrated to the satisfaction of the Division of Water Quality to be the most cost-effective solution; and
4. The Board Order made funding of the river crossing subject to approval by the Division of Water Quality of a Joint Powers Agreement executed by the Districts by March 1, 1977; and
5. The Districts executed such an agreement on January 25, 1978; and
6. Grant funding of the river crossing is essential to solve a long standing health problem in Santa Ynez, and to eliminate the unreliable river crossing which presently serves the community of Solvang.

THEREFORE BE IT RESOLVED:

That Board Order WQG 76-23 is hereby revised to find that the underground crossing of the river described in the Brown and Caldwell report of June 8, 1977, is the cost effective solution to the river crossing problem, and to remove the condition which required submission and approval of the Joint Powers Agreement by March 1, 1977.

CERTIFICATION

The undersigned, Executive Director of the State Water Resources Control Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on FEB 14 1978.


Executive Director

